

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Midlands Lessee LLC

)

Docket No. EG20-____-000

**NOTICE OF SELF-CERTIFICATION OF
EXEMPT WHOLESALE GENERATOR STATUS**

Pursuant to section 1266 of the Public Utility Holding Company Act of 2005 (“PUHCA 2005”)¹ and section 366.7 of the regulations of the Federal Energy Regulatory Commission (“FERC” or “Commission”),² Midlands Lessee LLC (“Midlands Lessee” or “Applicant”) hereby submits this notice of self-certification as an exempt wholesale generator (“EWG”), as defined in section 366.1 of the Commission’s regulations.³

I. COMMUNICATIONS

All service and correspondence concerning this Application should be sent to:

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¹ Pub. L. No. 109-58, 119 Stat. 594, § 1266 (2005).

² 18 C.F.R. § 366.7.

³ 18 C.F.R. § 366.1.

II. DESCRIPTION OF MIDLANDS LESSEE

Midlands Lessee is a Delaware limited liability company engaged in the business of leasing and operating an approximately 72 MW (nameplate) solar photovoltaic generating facility and associated interconnection facilities located in Calhoun County, South Carolina (the “Facility”). The Facility is interconnected with the South Carolina Electric & Gas Company (“SCE&G”) balancing authority area (“BAA”).

Midlands Lessee’s affiliate, Midlands Solar LLC (“Midlands Solar”), and Dominion Energy South Carolina (“DESC,” f/k/a SCE&G)⁴ are parties to a 20-year power purchase agreement effective on February 28, 2018, pursuant to which DESC will purchase 100% of the electric energy, capacity, and ancillary services produced by the Facility. The Facility does not include (and the Applicant does not own, operate or control) any transmission facilities other than limited and discrete interconnection facilities needed to connect the Facility to DESC’s transmission system. The Applicant expects the Facility to begin generating test energy on or about May 15, 2020, and to reach commercial operation on or about June 2020.

Midlands Lessee has entered into a 20-year lease of the Facility from Midlands Solar pursuant to the terms of a master lease agreement. Midlands Lessee will be responsible for the day-to-day operation and maintenance of the Facility and all associated costs and expenses. Although Midlands Solar will retain the PPA, Midlands Lessee will be responsible for power sales to DESC during the lease term and will become a “public utility” under the Federal Power Act and a “public-utility company” under PUHCA.⁵ Midlands Solar and Midlands Lessee have entered

⁴ On April 29, 2019, SCE&G changed its name to DESC. See, e.g., Dominion Energy S.C., Inc., Docket No. ER19-1536-001 (July 1, 2019) (unpublished letter order regarding Notice of Termination of SCE&G’s Wholesale Electric Tariff). However, the SCE&G BAA remains its own BAA following the merger transaction.

⁵ Midlands Solar is making separate filings for EWG status and authorization to make wholesale power sales in compliance with the Federal Power Act.

into an agreement whereby Midlands Solar has assigned to Midlands Lessee all of Midlands Solar' right, title and interest in and to all payments, receipts and revenues for power sales under the PPA. Midlands Lessee, in turn, will make fixed and variable lease payments (payments that vary with the gross revenues of Midlands Lessee) to Midlands Solar during the term of the lease.

III. SELF CERTIFICATION OF EWG STATUS

The Commission's regulations rely on the statutory definition, which specifies that an EWG is "any person engaged directly, or indirectly...and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale."⁶ The statute further specifies that an eligible facility "includes interconnecting transmission facilities necessary to effect a sale of electric energy at wholesale" which also "shall include a facility the construction of which has not been commenced or completed."⁷ Entities may self-certify their status as an EWG by demonstrating that they satisfy this definition.⁸

Midlands Lessee makes the following representations in order to demonstrate that it meets the Commission's definition of an EWG under Section 366.1 of the Commission's regulations for its energy sales from the Facility.

- A. Midlands Lessee is engaged directly and exclusively in the business of leasing and operating the Facility, and using the Facility exclusively to generate electric products for sale exclusively at wholesale. The Facility, as described above, will satisfy the definition of "Eligible Facilities" in Section 32(a)(2) of the Public Utility Holding Company Act of

⁶ 18 C.F.R. § 366.1.

⁷ 15 U.S.C. § 79z-5a(a)(2); see *Katahdin Transmission, LLC*, 104 FERC ¶ 61,195 (2003) (granting EWG status to an entity that owned and leased a portion of interconnection facilities necessary to make wholesale power sales).

⁸ 18 C.F.R. § 366.7.

1935, as incorporated by reference in 18 C.F.R. § 366.1, because it will be used for the generation of electric energy exclusively for sale at wholesale.⁹

- B. The Facility includes no transmission or distribution facilities other than those interconnecting transmission facilities necessary to permit sales of electricity exclusively at wholesale.
- C. Applicant does not make sales of power at retail.
- D. No rate or charge for, or in connection with, the construction of the Facility, or for any electric energy produced thereby, was in effect under the laws of any state on October 24, 1992. As such, no determination of certification by any state commission is necessary prior to acceptance of this self-certification as an EWG.
- E. Other than Midlands Solar, no portion of the Facility will be owned or operated by an electric utility company that is an affiliate or associate company of Applicant, as those terms are defined in Section 366.1 of the Commission's regulations.
- F. Other than the lease with Midlands Solar, there are no lease arrangements involving the Facility and any public utility company or any affiliate or associate company of any public utility company.¹⁰

In accordance with Section 366.7(a) of the Commission's regulations, a copy of this notice of self-certification is being concurrently served upon the South Carolina Public Service Commission.

⁹ Midlands Lessee may engage in certain activities incidental to wholesale sales of electric energy so long as such activities have been determined to be consistent with the Commission's EWG precedent.

¹⁰ Such lease arrangements with a public-utility company and involving a facility used exclusively to generate electricity for sale exclusively at wholesale satisfy the "and selling" requirement for EWG status. *DTE Pontiac North LLC*, 121 FERC ¶ 61,037 at P 7 (2007).

IV. CONCLUSION

Based on the facts, representations, and statements set forth herein, Midlands Lessee hereby requests that the Commission accept this self-certification of EWG status.

Respectfully Submitted,

/s/ Terence Healey

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Attorney for Midlands Lessee LLC

Dated: April 14, 2020

CERTIFICATE OF SERVICE

I, Terence Healey, hereby certify that I have this day caused the foregoing Notice of Self-Certification of Exempt Wholesale Generator Status of Midlands Lessee LLC, to be served upon the South Carolina Public Service Commission.

Dated at Boston, MA this 14th day of April, 2020

/s/ Terence Healey
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